


Randal S. Mashburn
U.S. Bankruptcy Judge



Dated: 10/28/2019

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

In re:)
) Case No: 3:19-bk-1971
CAPSTONE PEDIATRICS, PLLC,) Chapter 11
) Judge Randal S. Mashburn
Debtor.)

**SECOND AGREED ORDER AND STIPULATION EXTENDING THE TIME FOR THE
DEBTOR TO ASSUME OR REJECT AN UNEXPIRED LEASE
(SMYRNA LEASE)**

As evidenced by the signatures of counsel for the parties below, Capstone Pediatrics, LLC (“Debtor”) and Four Plus Corporation (“Landlord”) hereby agree and stipulate that the Debtor shall be entitled to an extension from October 24, 2019 to December 31, 2019, in which the Debtor may determine whether or not it will assume or reject the lease with the Landlord.

In support hereof, the parties stipulate, effective as of October 24, 2019, and have requested that the Court enter its order as follows:

- A. On March 28, 2019, the Debtor filed its Voluntary Petition for Relief under Chapter 11 of the Bankruptcy Code (the “Petition Date”).
- B. The Debtor and Landlord are parties to a Lease (the “Smyrna Lease”) of non-residential real property and improvements, located at 537 Stonecrest Pkwy., Suite 201, Smyrna, TN (“Premises”).
- C. The Debtor has not filed a motion to assume or reject the Smyrna Lease in this case.
- D. The initial deadline under 11 U.S.C. § 365(d)(4)(A)(i) for the Debtor’s assumption or rejection of the Smyrna Lease would expire on July 26, 2019.

E. The Debtor and the Landlord submitted and the Court entered an Agreed Order and Stipulation Extending the Time for the Debtor to Assume or Reject an Unexpired Lease entered August 14, 2019 (Doc. No. 135) that allowed the Debtor an additional 90 days from July 26, 2019 to October 24, 2019, to make its determination of whether to assume or reject the Smyrna Lease.

F. The Debtor confirms its requirements under the Smyrna Lease to permit Landlord to show the Premises to prospective purchasers and tenants in accordance with sections 22. (c) and (d) of the Smyrna Lease and to pay Landlord all costs incurred by Landlord (including attorneys' fees and expenses) which as of August 31, 2019, total \$4,531.37, and which continue to accrue. Further Debtor agrees to provide the Landlord 30 days notice in the event the Debtor ultimately decides to reject the Smyrna Lease and vacate the Premises.

G. In accordance with 11 U.S.C. § 365(d)(3), the Debtor shall continue to timely perform all of its obligations under the Smyrna Lease until the Smyrna Lease is assumed or rejected.

H. The Premises are utilized for one of the Debtor's pediatric clinics and is vital to the Debtor's current operations.

AND it appearing to the Court that good and sufficient cause exists for the relief set forth herein and that, based on the parties' agreement as evidenced by the signatures below, no notice and hearing is required for the entry of this Order,

It is hereby ORDERED that:

1. Pursuant to 11 U.S.C. § 365(d)(4)(B)(i), the Debtor shall have until and including December 31, 2019, in which to file and serve a motion to assume or reject the Smyrna Lease; and
2. Any further extensions of the assumption-or-rejection deadline will only be granted with the Landlord's prior written consent and in compliance with 11 U.S.C. § 365(d)(4).

This Order was signed and entered electronically as indicated at the top of the first page.

APPROVED FOR ENTRY:

/s/ David W. Houston, IV

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This Order has been electronically
signed. The Judge's signature and
Court's seal appear at the top of the
first page.
United States Bankruptcy Court.